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C O N F I D E N T I A L SECTION 01 OF 02 ZAGREB 000853

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TAGS: [PREL](#) [KAWC](#) [ICTY](#) [HR](#)

SUBJECT: CROATIA: UPDATE ON MISSING GOTOVINA DOCUMENTS

REF: ZAGREB 831

Classified By: Chris Zimmer, Political Officer, Reasons 1.4 (B/D)

¶1. (C) SUMMARY: Croatian officials stress that the political will exists to resolve the issue of missing documents in the Gotovina case before The Hague, but are uncertain whether ICTY Prosecutor Brammertz can be persuaded that the GoC has done all that it can. Croatia's Chief State Prosecutor also wonders how lawyer Marin Ivanovic, chief suspect in the disappearance of at least some of the documents requested by ICTY, has secured a position as member of Gotovina's defense team despite his inexperience, and why ICTY has taken no actions to remove Ivanovic from the case despite the Croatian indictment. The Dutch Ambassador to Croatia concedes that latest actions by Croatians are positive, but believes pressure is still needed to push the Croatians to cooperate.

End Summary.

¶2. (C) Deputy Prime Minister Kosor told the Ambassador on December 5 that she was tasked by the Prime Minister to organize the effort to find the documents requested by ICTY, or investigate what happened to them if they cannot be located. She stressed the political commitment in Croatia to deal with the issue. She said it would be "illogical", after having helped to get Gotovina to The Hague, to risk all that they have achieved by withholding documents. She argued that since none of the current members of the government had been in positions of responsibility for Operation Storm, they have no reason to hide documents in order to protect someone.

¶3. (C) In conversations on December 9 and 11, with Poloff and Polcouns respectively, Chief State Prosecutor Mladen Bajic elaborated on the criminal investigation his office is conducting into the disappearance of documents requested by ICTY in the case of General Gotovina. Bajic said that he believes that there are or were some notebooks that contained information on artillery during Operation Storm in 1995, but that these were not formal logs, per se. These notebooks could be the artillery logs which the ICTY Office of the Prosecutor (OTP) believes were mentioned in other documents seen by ICTY. Bajic said that these notebooks are among the documents his office believes Ivanovic received in 2007 from two members of the Croatian Army who are also currently under indictment.

¶4. (C) Bajic said that it is difficult to find many documents because, in the past, officials often kept their records after they left office instead of turning them over to archives. He also said that several documents were simply misfiled. For instance, during the current investigation, they found some documents placed in the wrong storage area of the military archives and have now turned these over to the ICTY. Bajic said that both he and Prime Minister Sanader had had lengthy phone conversations with ICTY Prosecutor Brammertz to try and convince Brammertz that the GoC was

fully cooperating over the documents and hiding nothing. Bajic said he thought Brammertz might moderate some of his criticism of Croatia at the UNSC session on Dec. 12, but still did not appear fully satisfied.

¶5. (C) Bajic noted that the Gotovina defense is the first case on which Ivanovic has worked as a lawyer. He thought it was strange that an inexperienced lawyer would be included on such a sensitive case. Bajic told Poloff that Ivanovic had previously been a member of military intelligence and that he personally believed Ivanovic was added to the defense because he already had some documents or could get access to documents wanted by the defense team.

¶6. (C) Bajic added that he is puzzled why Ivanovic is still working at The Hague. He said he informed the Court and Office of the Prosecutor about the Ivanovic indictments and, while Gotovina's team was reacting by trying to discredit Bajic, the OTP had not taken any actions against Ivanovic, such as asking to have him removed from the defense. Bajic said Brammertz had pushed him to search Ivanovic's office and home in Croatia (which Bajic argued was pointless as the documents would not be there), but had demurred when Bajic suggested that similar searches of Ivanovic's offices in the Netherlands might be more productive.

¶7. (C) The Dutch Ambassador, in a conversation with the Ambassador on December 9, said that the latest actions by the Croatians were "very positive." She added, however, that this showed that pressure is needed to push the Croatians to cooperate.

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¶8. (C/NF) COMMENT: The GoC remains very concerned about Brammertz's negative conclusions regarding Croatia's cooperation with the ICTY, particularly as indications grow that some EU member states will raise the issue in the context of Croatia's EU accession, but professes to be at wits' end as to what more they can do to try and satisfy him. They can question more people, and search more unrelated files to see what turns up, but if the documents in question are truly lost, or never existed in the form that Brammertz believes they did, then Croatia will end up stuck in a blind alley with no way out. They will be listening very carefully to Brammertz's presentation to the UNSC today. END COMMENT.
BRADTKE